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September 6, 1996
(Justice)

The following is being distributed at the request of the Royal Newfoundland Constabulary Public Complaints Commission:

Published pursuant to Section 38 of the Royal Newfoundland Constabulary Act, 1992, by the Commissioner, Public Complaints Commission.

Constable D. Ballard was a potential witness in the trial of a fellow police officer, Sergeant R. Escott, in the Supreme Court of Newfoundland. During the course of the trial, the Defence made Application to the Court seeking, a declaration of mistrial, among other things, based upon alleged improper and prejudicial dealings between Crown counsel and various crown witnesses. While giving testimony during the subsequent hearing, Cst. Ballard was the central figure in an incident that gave rise to disciplinary charges against him.

While an internal review into the conduct of Cst. Ballard was ongoing at the RNC a Public Complaint was filed with the RNC Public Complaints Commission on matters which also included the conduct of Cst. Ballard while giving evidence in Supreme Court. The internal charges were then stayed pursuant to section 19 of the RNC Regulations. As a result of the RNC investigation into the public complaint, Cst. Ballard was charged with "...conduct unbecoming a member of the RNC... while a witness in a criminal proceeding, and, engag[ing] in conduct unbecoming a member of the RNC...while sworn to tell the truth as a witness in a criminal proceeding".

Cst. Ballard pleaded not guilty to both charges and following a hearing before the Chief of Police was found guilty of both offenses. The discipline imposed was a suspension of four weeks in total, and, an order that he not be considered for promotion for a period of three years was ordered. Cst. Ballard appealed the Chief's decision to the Public Complaints Commission. The implementation of the discipline was delayed pending the outcome of the appeal process.

On April 24, 1996, under Section 28.(3) of the RNC Act, the matter was referred to Adjudicator, Ms. Linda Rose, Q.C., to conduct a hearing.

Following a public hearing which began on June 10, 1996 the Adjudicator stated "...in determining whether or not Constable Ballard is guilty of the offenses as charged, I must be satisfied on the "balance of probabilities" that this is so. There is no burden on Constable Ballard to disprove anything. The standard of proof....requires that all determinations be made on the balance of probabilities".

On the issue of concealment of a document, the Adjudicator found that the evidence did not satisfy the balance of probabilities that Cst. Ballard did engage in conduct unbecoming of a member of the Royal Newfoundland Constabulary by concealing an official document while giving evidence as a witness before Mr. Justice Puddister on October 25, 1994.

On the issue of attempting to mislead the Court, the Adjudicator found on the balance of probabilities that Constable Ballard did not wilfully or negligently attempt to mislead the Court in answering questions put to him.

Contact: Lorraine Roche, (709) 729-0950.

NOTE TO EDITORS: A copy of the adjudicators decision is available by contacting the Royal Newfoundland

Constabulary Public Complaints Commission at 729-0950.

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2:50 p.m.

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